

3/30/14

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Chapter No. 939
14/SS02/R1159CS
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SENATE BILL NO. 2990

Originated in Senate

Legislative

Secretary

SENATE BILL NO. 2990

AN ACT TO AUTHORIZE THE CITY OF FLOWOOD, MISSISSIPPI, TO LEVY A TAX ON THE GROSS PROCEEDS OF SALES OF ROOM RENTALS OF HOTEL AND MOTEL ROOMS IN THE CITY; TO AUTHORIZE THE CITY TO ISSUE BONDS IN AN AMOUNT NOT TO EXCEED \$20,000,000.00 FOR THE PURPOSE OF FINANCING A CONFERENCE CENTER AND RELATED AND ANCILLARY FACILITIES; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. As used in this act:

(a) "Bond" or "bonds" means bonds, notes or other obligations of the city issued, in one or more series, from time to time, pursuant to this act.

(b) "City" means the City of Flowood, Mississippi.

(c) "Costs" as applied to the facilities, means any and all costs of financing or refinancing such facilities and, without limiting the generality of the foregoing, shall include the following:

(i) All costs of the establishment, demolition, site development of new and rehabilitated buildings, rehabilitation, reconstruction repair, erection, building,

construction, remodeling, expanding, improving, equipping and furnishing of the facilities and all costs incident or related thereto;

(ii) The cost of acquiring any property interest in the facilities, including the purchase of any property interest or the cost of any option to purchase;

(iii) The cost of architectural, engineering, legal and related services; the cost of the preparation of plans, specifications, studies, surveys and estimates of cost and of revenue; all other expenses necessary or incident to planning, providing or determining the need for or the feasibility and practicability of the facilities or the acquisition of the facilities;

(iv) The cost of financing charges, including premiums or prepayment penalties, if any, and interest accrued prior to the acquisition and completion or refinancing of the facilities and after such acquisition and completion or refinancing, and start-up costs related to new facilities; and

(v) Any and all costs paid or incurred in connection with the financing or refinancing of the facilities, including out-of-pocket expenses, the cost of financing, legal, accounting, financial advisory and consulting fees, expenses and disbursements; the cost of any policy of insurance; the cost of printing, engraving and reproduction services; the cost of providing or establishing a reasonable reserve fund for

the payment of principal of and interest on bonds; and the cost of the initial or acceptance fee of any trustee or paying agent.

(d) "Facilities" means a conference center and other related and ancillary facilities.

(e) "Governing authorities" means the Mayor and Board of Aldermen of the city.

(f) "Hotel" or "motel" means and includes a place of lodging that at any one time will accommodate transient guests on a daily, weekly or monthly basis and that is known to the trade as such, and which is located within the city limits of the city.

(g) "Project" means paying the costs of the acquisition, construction, reconstruction, expanding, improving, furnishing, equipping and repairing of the facilities.

SECTION 2. (1) For the purpose of providing funds for the acquisition, construction, reconstruction, expanding, improving, furnishing, equipping and repairing of a conference center in the city, and for the payment of any debt incurred in connection therewith, there is levied and assessed and shall be collected from every person engaged in operating a hotel or motel, in addition to all other taxes currently being levied, assessed and collected, a tax of two percent (2%) of the gross proceeds of sales of room rentals of hotel and motel rooms for each such hotel and motel.

(2) Persons liable for the tax imposed in this section shall add the amount of the tax to the sales price, as applicable, and,

in addition, shall collect, insofar as practicable, the amount of the tax due by them from the person receiving the services at the time of payment for the services.

SECTION 3. (1) The tax shall be collected by and paid to the Department of Revenue in the same manner that state sales taxes are computed, collected and paid, and the full enforcement provisions of Chapter 65, Title 27, Mississippi Code of 1972, shall apply as necessary to the implementation and administration of this act.

(2) Except for any amount retained by the Department of Revenue under Section 27-3-58, Mississippi Code of 1972, the proceeds of the tax shall be paid to the city on or before the fifteenth day of the month following the month in which they were collected.

(3) Accounting for receipts and expenditures of the revenue from the tax shall be made separately from the accounting of receipts and expenditures of the general fund and any other funds of the city. The records reflecting the receipts and expenditures of the revenue from the tax shall be audited annually by an independent certified public accountant, and the accountant shall make a written report of his audit to the governing authorities. The audit shall be made and completed as soon as practicable after the close of the fiscal year, and expenses of the audit shall be paid from the funds derived pursuant to this act.

(4) The proceeds of the tax shall not be considered by the city as general fund revenues and shall be placed into a special fund created separate and apart from any other fund of the city.

(5) The authority to levy the tax shall be repealed on the first day of the month immediately succeeding the payment in full of the principal of and interest on all bonds issued pursuant to this act. The balance of any funds remaining in the special fund described in subsection (4) of this section after final payment of all principal of and interest on the bonds shall be deposited into the general fund of the city.

SECTION 4. Before any tax authorized under this act may be imposed, the governing authorities shall adopt a resolution declaring their intention to levy the tax, setting forth the amount of the tax to be imposed, the date upon which the tax shall become effective, and calling for an election to be held on the question. The date of the election shall be fixed in the resolution. Notice of such intention shall be published once each week for at least three (3) consecutive weeks in a newspaper published or having a general circulation in the city, with the first publication of the notice to be made not less than twenty-one (21) days before the date fixed in the resolution for the election and the last publication to be made not more than seven (7) days before the election. At the election, all qualified electors of the city may vote, and the ballots used in the election shall have printed thereon a brief statement of the

119 amount and purposes of the proposed tax levy and the words "FOR
120 THE TAX" and, on a separate line, "AGAINST THE TAX," and the
121 voters shall vote by placing a cross (X) or check (✓) opposite
122 their choice on the proposition. When the results of the election
123 shall have been canvassed and certified, the city may levy the tax
124 if sixty percent (60%) of the qualified electors who vote in the
125 election vote in favor of the tax. At least thirty (30) days
126 before the effective date of the tax provided in this section, the
127 governing authorities shall furnish to the Department of Revenue a
128 certified copy of the resolution evidencing the tax.

129 **SECTION 5.** The city is authorized to incur debt in an amount
130 not to exceed Twenty Million Dollars (\$20,000,000.00) under the
131 provisions of this act or under any existing law authorizing the
132 issuance of bonds, notes or other evidences of debt, for the
133 purpose of financing the project. The governing authorities, in
134 their discretion, may pledge the revenues derived from the tax
135 levy authorized by this act to repay any indebtedness of the city
136 which the city may be authorized to incur under the laws of the
137 state. In the event that the city elects to issue bonds pursuant
138 to Section 21-33-301 et seq., the bonds shall not be subject to
139 the limitation on indebtedness imposed by Section 21-33-303, to
140 the extent that the bonds are paid with the proceeds of the tax
141 authorized by this act or by the tax authorized by Chapter 957,
142 Local and Private Laws of 1996.



143 **SECTION 6.** (1) Bonds issued pursuant to the provisions of
144 this act shall be dated, shall bear interest at such rate or rates
145 (which rate or rates may be fixed, adjustable or variable), shall
146 mature at such time or times in either serial or term form or both
147 not exceeding thirty (30) years from their date, and may be made
148 redeemable prior to maturity at such price or prices, and upon
149 such terms and conditions as may be determined by the city. The
150 bonds shall be in such form and denomination or denominations and
151 payable at such place or places, either within the state or
152 without the state, and may be authenticated in such manner, as the
153 city may determine by resolution. The bonds shall be executed on
154 behalf of the city by the manual or facsimile signature of the
155 mayor and shall be countersigned by the manual or facsimile
156 signature of the city clerk. In cases where any officer whose
157 signature or a facsimile of whose signature shall appear on any
158 bonds shall cease to be such officer before the delivery of and
159 payment for such bonds, such signature or such facsimile shall
160 nevertheless be valid and sufficient for all purposes the same as
161 if such officer had remained in office until such delivery and
162 payment. The bonds may be issued in book entry or in fully
163 registered form, or any combination, or may be payable to a
164 specific person, as the city may determine, and provision may be
165 made for the conversion from one form to another. The duty of
166 conversion may be imposed upon a trustee in a trust indenture.



(2) The city shall sell the bonds at such price or prices as it shall determine, at public or private sale.

(3) The bonds shall be issued under and subject to such terms, conditions and covenants providing for the payment of the principal, redemption premium, if any, and interest thereon and such other terms, conditions, covenants and protective provisions safeguarding such payment, not inconsistent with this act, as may be found to be necessary by the city for the most advantageous sale of the bonds.

(4) All bonds issued by the city under authority of this act, except for bonds issued pursuant to the provisions of Section 21-33-301 et seq., shall be limited obligations of the city, the principal of, redemption premium, if any, and interest on which shall be payable solely from the tax authorized by this act and/or the tax authorized by Chapter 957, Local and Private Laws of 1996. The bonds issued under the authority of this act shall never constitute an indebtedness of the city within the meaning of any state constitutional provision or statutory limitation, and shall never constitute nor give rise to a pecuniary liability of the city or a charge against its general credit or taxing powers, and such fact shall be plainly stated on the face of each such bond. All bonds issued under the authority of this act shall be construed to be negotiable instruments, despite the fact that they are payable solely from a specified source.

SECTION 7. Prior to the issuance of any bonds under the provisions of this act, the governing authorities shall adopt a resolution declaring its intention so to do, stating the amount of bonds proposed to be issued, and the date upon which the governing authorities proposes to direct the issuance of the bonds. The resolution shall be published once a week for at least three (3) consecutive weeks in a newspaper published in the city. The first publication of the resolution shall be made not less than twenty-one (21) days prior to the date fixed in the resolution to direct the issuance of the bonds and the last publication shall be made not more than seven (7) days prior to that date.

SECTION 8. (1) Any bonds of the city at any time outstanding under this act may, at any time and from time to time, be refunded by the city by the issuance of its refunding bonds in such amount as the governing authority may deem necessary, but not exceeding:

- (a) The principal amount of the bonds being refunded;
- (b) Applicable redemption premiums, if any, thereon;
- (c) Unpaid interest on the bonds to be refunded to the date of delivery or exchange of the refunding bonds;
- (d) In the event the proceeds from the sale of the refunding bonds are to be deposited in trust as hereafter provided, interest to accrue on the bonds to be refunded from the date of delivery of the refunding bonds to the date of maturity or to a redemption date of the bonds to be refunded; and

(e) Expenses, premiums and commissions deemed by the governing authority to be necessary in connection with the issuance of the refunding bonds.

(2) Any refunding may be effected, whether the bonds to be refunded shall have then matured or shall thereafter mature, either by exchange of the refunding bonds for the bonds to be refunded with the consent of the holders of the bonds to be so refunded, or by sale of the refunding bonds and application of the proceeds to the payment of the bonds to be refunded, and regardless of whether the bonds to be refunded were issued in connection with the same projects or separate projects, and regardless of whether the bonds proposed to be refunded shall be payable on the same date or on different dates or shall be due serially or otherwise.

(3) The principal proceeds from the sale of any refunding bonds shall be applied only as follows:

(a) To the immediate payment and retirement of the bonds being refunded; or

(b) To the extent not required for the immediate payment of the bonds being refunded, then such proceeds shall be deposited in trust to provide for the payment and retirement of the bonds being refunded and to pay any expenses incurred in connection with the refunding, but may also be used to pay interest on the refunding bonds prior to the retirement of the bonds being refunded. Money in any such trust fund may be

invested in direct obligations of, or obligations the principal of and interest on which are guaranteed by, the United States of America, or in certificates of deposit issued by a bank or trust company located in the state if the certificates are secured by a pledge of any of those obligations having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. Nothing in this act shall be construed as a limitation on the duration of any deposit in trust for the retirement of bonds being refunded but which shall not have matured and which shall not be presently redeemable.

SECTION 9. The bonds issued under the provisions of this act shall be legal investments for commercial banks, savings and loan associations and insurance companies organized under the laws of the state.

SECTION 10. The bonds issued under the provisions of this act may be validated in the manner provided by law.

SECTION 11. The bonds authorized by this act and the income from those bonds and all security agreements and mortgages executed as security for those bonds made pursuant to the provisions hereof, and the revenues derived from the bonds, shall be exempt from all income taxation in the state.

SECTION 12. This act, without reference to any other statute, shall be deemed to be full and complete authority for the issuance of the bonds authorized by this act, and shall be

construed as an additional and alternative method for the issuance of the bonds, and none of the present restrictions, requirements, conditions or limitations of law applicable to the issuance or sale of bonds, notes or other obligations by municipalities in this state shall apply to the issuance and sale of bonds under this act, and no proceedings shall be required for the issuance of such bonds other than those provided for and required in this act, and all powers necessary to be exercised in order to carry out the provisions of this act, are hereby conferred.

SECTION 13. Subject to the provisions this act and provided that there are no bonds outstanding pursuant to the provisions of this act, the tax levied under this act may be discontinued by an action of the governing authority adopting a resolution to that effect. The discontinuance of the tax shall be effective beginning on the first day of the month designated in the resolution and the tax levy shall not apply to sales made on and after that date. A certified copy of the resolution discontinuing the tax shall be delivered to the Department of Revenue at least seven (7) days before the date set in the resolution for the discontinuance of the tax.

SECTION 14. Sections 2, 3 and 4 of this act shall be repealed from and after July 1, 2017.


SECTION 15. This act shall take effect and be in force from and after its passage.

PASSED BY THE SENATE
March 11, 2014



PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
March 19, 2014.



SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR



GOVERNOR

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